

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 57th LEGISLATURE - REGULAR SESSION COMMITTEE ON STATE ADMINISTRATION

Call to Order: By **CHAIRMAN ALLAN WALTERS**, on February 13, 2001
at 8:00 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Allan Walters, Chairman (R)
Rep. Debby Barrett, Vice Chairman (R)
Rep. Tom Dell, Vice Chairman (D)
Rep. Norma Bixby (D)
Rep. Dee Brown (R)
Rep. Donald L. Hedges (R)
Rep. Hal Jacobson (D)
Rep. Larry Jent (D)
Rep. Michelle Lee (D)
Rep. Larry Lehman (R)
Rep. Ralph Lenhart (D)
Rep. Gay Ann Masolo (R)
Rep. Douglas Mood (R)
Rep. Alan Olson (R)
Rep. Holly Raser (D)
Rep. Rick Ripley (R)
Rep. Clarice Schrumpf (R)
Rep. Frank Smith (D)

Members Excused: None.

Members Absent: None.

Staff Present: Sheri Heffelfinger, Legislative Branch
Ruthie Padilla, Committee Secretary

Please Note: These are summary minutes. Testimony and
discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 496, 2/9/2001; HB 527,
2/9/2001; HB 340, 2/9/2001; HB
508, 2/9/2001
Executive Action: None

HEARING ON HB 496

Sponsor: REPRESENTATIVE LARRY JENT, HD 29, BOZEMAN

Proponents: Steve Wade, Montana Collectors Association
David Hall, Attorney
Mike Moore, Montana Collectors Association
Jeff Koch, Montana Collectors Association
Bob Pyfer, Montana Credit Unions Leagues
Kevin Mosier, Centron Services Inc.
Richard Rowe, MT Process Server & Levying Officer
Rachel Anderson, Check Rite
Tom England, Centron Services Inc.
Dave Anderson, Check Rite of Montana

Opponents: George Bennett, Montana Bankers Association
Tom Ellis, Wells Fargo Bank
Barb Alfson, Wells Fargo Bank

Opening Statement by Sponsor:

{Tape : 1; Side : A; Approx. Time Counter : 0.0}

REPRESENTATIVE LARRY JENT, HD 29, BOZEMAN stated the bill is a civil procedure bill. It modifies some of the laws that govern the rules of court and has to do with the collection of monies owed. The bill proposes to do seven things. One, allows, at the courts desecration, telephone pre-trial conferences rather than personal, if there is no additional evidence. Two, it will clarify that a summons issued by a justice court can be served anywhere in Montana. Three, it would authorize the justice courts to contract with private entities to collect judgments that are being paid to the court systems. Four, it repeals section 25-13-102 of the Montana Code. Five, it provides a judgement can be renewed upon motion or supplemental pleading to the court. Six, it clarifies that property held by third persons, other than earnings, shall respond in a timely fashion. Seven, it clarifies the collection of judgements in municipal court.

Proponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 10.5}

Steve Wade, Montana Collectors Association cites sections of the bill the association supports.

David Hall, Attorney stated in his experience most justice courts currently do these things and feels this bill needs to be passed.

This bill is simply clarification, housecleaning and makes the rules more efficient.

Mike Moore, Montana Collectors Association said he put together some of the proposed legislation. Many things the bill does makes the process more efficient and ensures the financial responsibility is placed on the parties rather than the courts.

Jeff Koch, Montana Collectors Bureau Services stated he would like to be on record as being a proponent to the bill.

Bob Pyfer, Montana Credit Unions Leagues said they support the bill. They feel the bill will improve the collection process for creditors.

Kevin Mosier, Centron Services Inc. said he would like to be on record as a proponent for the bill.

Richard Rowe, MT Process Server & Levying Officer submitted written testimony. **EXHIBIT**(sth36a01)

Opponents' Testimony:

{Tape : 1; Side : A; Approx. Time Counter : 24.4}

George Bennett, Montana Bankers Association submitted a proposed amendment. **EXHIBIT**(sth36a02)

Tom Ellis, Wells Fargo Bank said they are opposed to section 8 of the bill. The provisions of the bill makes it difficult o serve their customers properly. He then discussed the what the bank does to process a levy and how the bill would impact them.

Questions from Committee Members and Responses:

{Tape : 1; Side : B; Approx. Time Counter : 6}

REPRESENTATIVE BROWN asked if there is a response time given for the officers. **Tom Ellis** replied no, they have a legal processing area that knows IRS and State of Montana requirements built into the system.

REPRESENTATIVE OLSON asked if the amendments would take care of their concerns. **Tom Ellis** said the amendments he has read will address his concerns.

REPRESENTATIVE JENT asked what happens if there was an individual who owed child support money. The individual has \$1000.00 in his

account and the support order is for \$400.00, what happens to the \$400.00. **Tom Ellis** replied when they receive the levy, within 30 minutes a hold will be put on the account and no money can go anywhere.

REPRESENTATIVE BARRETT asked if the bill is placing much financial restriction to the financial institutions. **REPRESENTATIVE JENT** replied that he has the same concern and plans on meeting with the credit unions and bankers association to work the issues out.

REPRESENTATIVE JACOBSON asked **David Hall** what his opinion is in regards to the maximum number of days that could be used in this situation. **David Hall** stated he has concerns about the 5 days notice because the statute is unclear as to when the 5 day notice is to be sent out. Is it to be sent out when the levy is sent to the bank or when you receive the money back from the bank? This needs to be clarified in the bill.

Written testimony was submitted on behalf of Darrel Van Koten. **EXHIBIT(sth36a03)** and Dust Lehman. **EXHIBIT(sth36a04)**

Closing by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 21.0}

REPRESENTATIVE JENT said he will commit to read the rest of the code before executive action is done on the bill. He will also get together with the parties to make it work.

HEARING ON HB 527

Sponsor: **REPRESENTATIVE KIM GILLAN, HD 11, BILLINGS**

Proponents: **Darrell Holzer, AFL-CIO**
Eugene Fendersen, Montana Highway Labor Union

Opponents: None

Opening Statement by Sponsor:

{Tape : 1; Side : B; Approx. Time Counter : 22.3}

REPRESENTATIVE KIM GILLAN, HD 11, BILLINGS stated the bill amends existing law to allow, on a voluntary basis, project labor agreements. This bill is being brought forth because it is an important tool for Montana to use in economic development. The project labor agreements were eliminated last session by **Fred**

Thomas. This would allow a stable labor cost for the contractor to use in his bids.

Proponents' Testimony:

{Tape : 1; Side : B; Approx. Time Counter : 25.1}

Darrell Holzer, AFL-CIO stated they dealt with this issue last session and is confused as to why the state would adopt any law that did not mandate good. People are leaving the state because without a project labor agreement there is no work. They hope the committee will not close the door on any opportunity that could prove a great benefit to the tax payers and the citizens of the State of Montana.

Eugene Fendersen, Montana Highway Labor Union said they are asking the committee to repeal 18-24-25 of the Montana Code, because the US Supreme Court ruled it unconstitutional.

Questions from Committee Members and Responses:

{Tape : 2; Side : A; Approx. Time Counter : 8}

REPRESENTATIVE RASER asked for the history of the original bill.

REPRESENTATIVE GILLAN replied there were no specific circumstances. When the bill passed it made project labor agreements illegal in Montana. **Eugene Fendersen** clarified when the Supreme Court decision came down, it upset a lot of the non-union contractors the U.S. The intent was to ask each state to pass laws banning project labor agreements. Montana and a few other states adopted legislation.

REPRESENTATIVE BROWN asked if this would drive up the cost of highway or municipal jobs under the statute. **Darrell Holzer** replied no, it would not because when a project falls within the parameter of the states prevailing wage rates, the prevailing wages is paid regardless to both union and non-union employees.

REPRESENTATIVE OLSON asked by repealing this bill, how would it make it better for businesses in Montana. **Darrell Holzer** replied because of the assurance and ready access to skilled crafts people. It would also give private business owners the option of how they want the contract done.

REPRESENTATIVE RASER asked if this is repealed, would it force public entities to have a project labor agreement. **Darrell Holzer**

replied no it absolutely does not. It is their individual discretion.

REPRESENTATIVE BARRETT asked if this rule would be on state and political subdivisions. **Darrell Holzer** said he is not sure.

Closing by Sponsor:

{Tape : 2; Side : A; Approx. Time Counter : 29}

REPRESENTATIVE GILLAN said the reason she brought the bill is because she has done some research on project labor agreements and feels they provide fast relief from construction project headaches. They can be a win-win situation and become worker friendly.

HEARING ON HB 340

Sponsor: **REPRESENTATIVE CINDY YOUNKIN, HD 28, BOZEMAN**

Proponents: **Jane Jelinski, Montana Association of Counties**
Linda Stoll, Montana Association of Planters
Byron Roberts, Montana Building & Industry
Association.
Mona Jamison, Gallatin County Attorney
Mike Murphy, Montana Water Resource Association
Page Dringman, Montana Association of Realtors
Lorna Karn, Montana Farm Bureau Federation
John Bloomquist, Montana Stock Growers Association
Andy Skinner, Helena Property Owners Association
Gary Willis, Montana Power

Opponents: None

Informational: **Jack Stoltz, Department of Natural Resources,**
Water Resource Division
Myra Shults, Attorney
Don Stepler, Richland County Commissioner

Opening Statement by Sponsor:

{Tape : 2; Side : B; Approx. Time Counter : 0}

REPRESENTATIVE CINDY YOUNKIN, HD 28, BOZEMAN stated the primary intent of the bill is require a developer to reserve the subdivision water rights and transfer them to a single entity, such as a homeowners association, for use by all the sub-division

landowners who to the water. The bill provides a provision within the law and subdivision plat that current or future owners of the subdivision property cannot place structures or plant vegetation other than grass on the banks of the ditch. If an individual were to plant vegetation or place a structure on the ditch banks, it would make it impossible situation for the ditch owners to do maintenance and repair on the ditch. She then discussed some conceptual amendments that she will be proposing to the bill.

Proponents' Testimony:

{Tape : 2; Side : B; Approx. Time Counter : 9.2}

Jane Jelinski, Montana Association of Counties stated they stand in favor of the bill and feels it provides a wonderful remedy for a serious problem.

Linda Stoll, Montana Association of Planters said they are in support of the bill but have some concerns about zoning subdivisions. They feel this would be a great bill if the sponsor agrees to strike lines 11-19 of the bill.

Byron Roberts, Montana Building & Industry Association We support of the bill. They really like the provisions requiring the preservation of surface water rights and the setting of ditch easements but would also like to see line 11-19 of the bill stuck.

Mona Jamison, Gallatin County Attorney said they support the bill with the amendments the sponsor has discussed regarding getting the water rights issue resolved and feels it is very important to get the water rights issue resolved.

Mike Murphy, Montana Water Resource Association stated they would like it to be on record they are in support of this bill with the amendments proposed by the sponsor. They feels this a reasonable change in the law and will help facilitate the access to water associated with the subdivisions.

Page Dringman, Montana Association of Realtors said they are in support of the provision that would require water rights to be reserved or transferred to a single entity on smaller subdivisions. They are also in support of the section which would protect the irrigation and water right holders with the ditch easements, however they too have a concern with lines 11-19 on the zoning issues and would be in full support of the entire bill with that section removed.

Lorna Karn, Montana Farm Bureau Federation stated they are also in support of the bill with the amendments proposed by the sponsor.

John Bloomquist, Montana Stock Growers Association said this is a logical extension to a previous bill and feels it is long over due because when a track gets divided many times, you take a quantity of water that would not do anything if split between twenty home owners but cause legal issues.

Andy Skinner, Helena Property Owners Association stated they are in support of the bill, but are also concerned about lines 11-19 on growth policy.

Gary Willis, Montana Power submitted and discussed an amendment on utility right away easement. **EXHIBIT (sth36a05)**

Informational Testimony:

{Tape : 2; Side : B; Approx. Time Counter : 23.4}

Jack Stoltz, Department of Natural Resources, Water Resource Division said there will be no fiscal impact to this piece of legislation because instead of DNC putting their time and efforts cleaning up messes, they would be spending their time working with developers and local governments to work in preserving the water rights.

Myra Shults, Attorney stated she supports the removal of lines 11-18 from the bill.

Don Steppler, Richland County Commissioner commented they need to be very careful in approving subdivisions the way they are proposing because it could cause a lot of legal issues.

Questions from Committee Members and Responses:

{Tape : 2; Side : B; Approx. Time Counter : 26.0}

REPRESENTATIVE HEDGES asked **REPRESENTATIVE YOUNKIN** if she was in support of the utility amendment proposed by **Gary Willis**. **REPRESENTATIVE YOUNKIN** replied she has read the amendment and does not have any problems with it.

REPRESENTATIVE BARRETT asked if the bill is only for future subdivisions. **REPRESENTATIVE YOUNKIN** replied yes, you get into problems if you try and make things retroactive.

Closing by Sponsor:

{Tape : 3; Side : A; Approx. Time Counter : 0}

REPRESENTATIVE YOUNKIN asked for the committees do pass on the bill.

HEARING ON HB 508

Sponsor: **REPRESENTATIVE CINDY YOUNKIN, HD 28, BOZEMAN**

Proponents: **Mona Jamison, Gallatin County Attorney**
Jane Jelinski, Montana Associations of Counties
Page Dringman, Montana Association of Realtors

Opponents: **Andy Skinner, Helena Property Owners Association**

Informational: **Linda Stoll, Montana Association of Planners**
Myra Shults, Attorney

Opening Statement by Sponsor:

{Tape : 3; Side : A; Approx. Time Counter : 1.9}

REPRESENTATIVE CINDY YOUNKIN, HD 28, BOZEMAN said this is a zoning bill and would streamline a procedure for property specific amendments in zoning districts and provide a mechanism to change the 101 section zoning to 201 section zoning.

Proponents' Testimony:

{Tape : 3; Side : A; Approx. Time Counter : 2.8}

Mona Jamison, Gallatin County Attorney commented in support of the bill. What they feel is important about the bill is it would allow 101 section zoning to become a 201 section zoning. A 101 is a citizen started zoning district that takes 60 percent of the land owners to approve. In many of these cases, a 201 would be better suited and would provide a coordinated development approach within a county. In these situations they feel they should be able to convert to a 201. 201 is county driven.

Jane Jelinski, Montana Associations of Counties stated they are in favor of the bill. The problem with the current law is citizen petition zoning districts are a wonderful mechanism for doing zoning because they have all affected parties involved in creating the district and developing the regulations. There are some situations a 201 would be needed and that is why this bill is being proposed.

Page Dringman, Montana Association of Realtors said there are circumstances where citizen initiated zoning process should be converted to county zoning. This may need to take place for administrative purposes or the citizen zoning district is not enforcing its regulations. There is procedural protection in the bill which they support.

Opponents' Testimony:

{Tape : 3; Side : A; Approx. Time Counter : 12.3}

Andy Skinner, Helena Property Owners Association said they do not feel planners should be protectors. They are not in favor of the planning board bills that are being proposed and wants the committee to be very cautious in reading the bill.

Informational Testimony:

{Tape : 3; Side : A; Approx. Time Counter : 15.1}

Linda Stoll, Montana Association of Planners said she thinks the current zoning laws are incredibly complicated and difficult to understand and administer. She sent the bill to members of the association and the feedback expressed the members are concerned about the language in the bill, but feel the intent is good. It is unclear of who can protest the zoning district.

Myra Shults, Attorney stated the problem she has with the bill is in the new procedure proposed for 76-2-205. She does not feel that procedure is necessary and does not want to duplicate a procedure that is already contained in section 205.

Questions from Committee Members and Responses:

{Tape : 3; Side : A; Approx. Time Counter : 23}

REPRESENTATIVE DELL asked for clarification of how they are going to insure that the county planners are not going to mandate subdivisions to be a 201 if they are currently a 101 and want to stay a 101. **REPRESENTATIVE YOUNKIN** replied the intention is for administrative purposes. They cannot change them from a 101 without their permission or input and without a public hearing.

Closing by Sponsor:

{Tape : 3; Side : A; Approx. Time Counter : 30.7}

REPRESENTATIVE YOUNKIN stated nothing can happen with the zoning without a vote or hearing on the issue. They will not do something the citizens do not want.

ADJOURNMENT

Adjournment: 10:50 A.M.

REP. ALLAN WALTERS, Chairman

RUTHIE PADILLA, Secretary

AW/RP

EXHIBIT (sth36aad)